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Legal and Policy Framework for Transportation Planning

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Key to Icons

-  Memorandum of Understanding.
-  Reference document, such as a manual, book, or published article.
-  Permit or application for a permit, approval or certification.
-  Web site.*

210.01 Introduction

Transportation planning is driven by federal and state requirements. WSDOT must comply with federal law because transportation is regulated by Congress as interstate commerce under the commerce clause of the Constitution. Furthermore, a substantial portion of WSDOT's budget comes from federal funds and WSDOT must comply with various federal laws to receive and spend these funds. These funds and associated federal laws are administered by a variety of federal agencies including Federal Highway Administration (FHWA), Federal Aviation Administration (FAA); and the Surface Transportation Board (STB).

State laws also govern transportation planning. WSDOT is a state agency and is funded through the state legislature. Numerous state laws govern WSDOT's planning activities.

* Web sites and navigation referenced in this section are subject to change. For the most current links, please refer to the online version of the EPM, available through the EAO home page: <http://www.wsdot.wa.gov/eesc/environmental/>

This section reviews the primary federal and state legislation affecting transportation planning, and the overall policy guidelines of the Washington Transportation Commission. For more specific references, see **Sections 410-480**.

210.02 Federal Legislation

Following are some of the key statutes affecting transportation planning. For a detailed reference matrix, see FHWA's web site:

 <http://www.fhwa.dot.gov/>

Click on FHWA Programs; then Environment; then **Legislation, Regulations, and Guidance**; then Summary of Environmental Legislation **(under Legislation)**.

Or by direct link:

 http://www.fhwa.dot.gov/environment/env_sum.htm

(1) **TEA-21 – Transportation Equity Act for the 21st Century**

TEA-21 was enacted on June 9, 1998 and amended July 22, 1998. It replaces the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 as the authorizing legislation for federal surface transportation funding for highways, highway safety, and transit. It covers the six-year period 1998-2003. The full text of TEA-21 may be found on the FHWA web site at:

 <http://www.fhwa.dot.gov/>

Click on Legislation and Regulations, then Transportation Equity Act for the 21st Century.

Or by direct link:

 <http://www.fhwa.dot.gov/tea21/index.htm>

***(a) Statewide Planning Provisions
(Section 1204)***

As a condition for receiving federal surface transportation funding, states are required to:

- Develop a long-range intermodal transportation plan for at least 20 years.
- Develop statewide plans and programs for the development and integrated management and operation of intermodal surface transportation systems and facilities (including pedestrian walkways and bicycle facilities).
- Develop a Statewide Transportation Improvement Program (STIP).
- Coordinate designated Metropolitan Planning Organizations (MPOs) to develop Transportation Improvement Programs (TIPs).

(b) Goals of Transportation Planning

TEA-21 directs states to consider projects that will:

- Support the economic vitality of the United States, the states, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.
- Increase the safety and security of the transportation system for motorized and non-motorized users.
- Protect and enhance the environment, promote energy conservation, and improve quality of life.
- Enhance the integration and connectivity of the transportation system, across and between modes throughout the state, for people and freight.
- Promote efficient system management and operation.
- Emphasize the preservation of the existing transportation system.

***(c) Environmental Streamlining
Provisions (Section 1309)***

This section aims to coordinate federal agency involvement in major highway projects under NEPA to address concerns relating to delays in implementing projects, unnecessary duplication of effort, and added costs associated with the conventional process for reviewing and approving surface transportation projects. Key elements of Section 1309 are:

- Establishes a coordinated environmental review process by which USDOT would work with other Federal agencies to ensure that major highway and transit projects are advanced according to cooperatively determined time frames.
- Emphasizes using concurrent rather than sequential reviews to save time.
- Establishes a dispute resolution process between USDOT and other federal agencies.
- Allows states the option of including their environmental reviews in the coordinated environmental review process.
- Authorizes the Secretary of Transportation to approve state DOT requests to reimburse federal agencies for expenses associated with meeting expedited time frames.

Other environmental provisions of TEA-21 may be reviewed at the FHWA web site.

(2) Clean Air Act

Under the federal Clean Air Act (42 USC 7401 et seq.), each state must develop a state implementation plan (SIP) for controlling air pollutants including those released by vehicles. EPA recently set new standards for ozone and particulate matter, two pollutants partially caused by motor vehicles. There are transportation funding implications for “non-attainment” areas not meeting the new standards. If a region in non-attainment does not show progress in moving back towards attainment, federal transportation funds for projects that increase pollution can be withheld. In addition,

transportation projects requiring federal funding that must go through a federal “conformity” process can have the funds withheld if it is that the projects will further worsen air quality. For details, see [Section 425.02](#).

(3) Clean Water Act

The Water Pollution Control Act, better known as the Clean Water Act (CWA), 33 USC Section 1251 *et seq.*, provides for comprehensive federal regulation of all sources of water pollution. It prohibits the discharge of pollutants from other than permitted sources. The CWA authorizes the EPA to administer or delegate water quality regulations covered under the act. In Washington, authority is delegated primarily to COE and Ecology. Implementation requirements for CWA Sections 303(d), 305(b), 401, 402, and 404 are described in [Section 431.06](#).

210.03 State Legislation

Requirements for transportation planning are established by state law. In Washington State, the transportation planning, programming and project development, and accompanying environmental review process are closely intertwined with and given added significance by passage of the Growth Management Act (GMA) in 1990 and the Salmon Restoration Act in 1999.

(1) Statewide Multi-Modal Transportation Plan

Under this law (RCW 47.06), WSDOT is responsible for developing a statewide multi-modal transportation plan, in conformance with federal requirements, “to ensure the continued mobility of people and goods within regions and across the state in a safe, cost-effective manner.” WSDOT adopted Washington’s Transportation Plan in 1996 to comply in part with this mandate.

(2) Growth Management Act

The GMA (RCW 36.70A), adopted in 1990, requires cities and counties with significant

population growth to prepare comprehensive plans composed of six elements including a transportation element. The transportation element must document the 20-year transportation infrastructure needs that are consistent with the other plan elements. The jurisdiction must show how it will pay for the level of services it is providing and any new facilities or service must be concurrent with the development driving the need. For details, see [Section 451](#).

An implementation guidance manual, *Coordinating Transportation with Growth Management Planning* under 1998 legislation, HB 1487, the “level of service bill,” is available on line from WSDOT’s web site:



<http://www.wsdot.wa.gov/>

Click on Site Index, then T, then Transportation Planning, then Coordinating Transportation and Growth Management Planning.

Or by direct link:



<http://www.wsdot.wa.gov/ppsc/planning/Manuel.pdf>

Both the GMA and the transportation planning statutes require WSDOT to comply with local comprehensive plans and development regulations. The GMA requires local governments to develop a process for siting “essential public services.” The transportation planning statute (RCW 47.06.140) defines these facilities to include the interstate highway system, inter-regional state principal arterials including ferry connections that serve state-wide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger inter-modal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to high-capacity transportation systems serving regions as defined in RCW 81.104.015.

(3) Washington Clean Air Act (RCW 70.94)

Washington adopted a Clean Air Act to implement requirements of the federal CAA and

protect air quality in Washington. The Washington Clean Air Act provides authority to Washington Department of Ecology over air pollution sources and to devise SIPs as mandated by the federal CAA. For details, see [Section 425.02](#).

(4) *Salmon Recovery Strategy-Salmon Restoration Act*

This act, adopted in 1999, is a action plan from the Joint Natural Resources Cabinet. Its focus is new actions or modifications to existing activities that provide additional protection for salmon.

It is a combination of priority actions for short-term implementation and a scorecard to track implementation of strategies.

The act will lead to defined criteria and analysis that will be required on land use and road projects in the coming years. These will be folded in with any regional or state agreements on the 4(d) rule. For details, see [Section 436](#).

210.04 Washington Transportation Commission Policy

WSDOT policies are guiding principles to accomplish broad objectives and/or specific direction in support of the department's vision, mission, and goals. Policies apply agency-wide or when more than one organizational group is impacted. WSDOT policy, in the form of an Executive Order or Policy Statement, must be authorized by the Office of the Secretary.

(1) *Transportation Policy Plan*

Overall WSDOT policy is stated in the *Transportation Policy Plan for Washington State*, which aims to foster implementation of consistent transportation initiatives, programs, and projects in three issue areas, one of which is environmental protection and energy conservation.

The following eight policy objectives of the Policy Plan apply to all modes and all transportation providers in Washington:

- Protect our investments by keeping transportation infrastructure in sound operating condition.
- Operate transportation systems to work reliably and responsibly for the customer.
- Improve safety through continuous reduction in the societal cost of accidents.
- Provide viable mobility choices for the customer and expand the system to accommodate growth.
- Support the economy through reduced barriers to the movement of people, products, and information.
- Meet environmental responsibilities.
- Cooperate and coordinate with public and private transportation partners so that systems work together cost effectively.
- Continuously improve the efficient and effective delivery of agency programs.

The plan can be found on WSDOT's web site:



<http://www.wsdot.wa.gov/>

Click on Transportation Commission, then **Reports and Plans**, then State Transportation Policy.

Or by direct link:



<http://www.wsdot.wa.gov/PPSC/WTP/>

(2) *Transportation Commission Policy Catalog*


The Transportation Commission Policy Catalog provides policy guidelines to shape and direct state, regional, and local decisions about the future of Washington's transportation systems. The policy in this catalog was developed through a consensus-based steering committee process staffed by WSDOT and guided by public input. The steering committee was composed of government, business, and interest group representatives from all over the state.

The Policy Catalog can be found on WSDOT's web site:

 <http://www.wsdot.wa.gov/>

Click on Transportation Commission, then **Reports and Plans**, then Policy Catalog.

Or by direct link:

 <http://www.wsdot.wa.gov/commission/ReportsPlans/Catalog.pdf>

The Policy Catalog addresses several areas, one of which is environmental protection. The environmental section of the policy catalog states the following three principles:

- Minimize, and avoid when practical, air, water, and noise pollution; energy usage; use of hazardous materials; flood impacts; and impacts on wetlands and heritage resources from transportation activities.
- When practical, and consistent with other priorities, protect, restore and enhance fish and wildlife habitats and wetlands impacted by transportation facilities.
- Coordinate and take the lead in partnering with other agencies in environmental issues affecting transportation to reduce costs and increase effectiveness.

Chapter 6 of the Policy Catalog contains service objectives and detailed policies on air quality, water quality, fish and wildlife habitat protection, wetlands conservation, use of non-renewable energy resources, visual quality, noise abatement, use of hazardous substances, and heritage resources. These policies are listed in Part 400 of the manual under the applicable environmental element in the policy guidance section.

In addition, the *1995 Policy Plan: Report to the Legislature* stated that, "Measures to protect, restore, and enhance the environment must be integrated into the planning, construction, operation, and maintenance of the transportation system."

210.5 Exhibits

None.